

# Service By Publication Packet

## (Filing a New Divorce)

### 3001

**Before attempting Service by Publication, you should consider seeking legal assistance. There are specific and complicated rules that must be followed to successfully serve a party by publication.**

Service by Publication is a **last resort** and can only be used if personal service did not work. **This Service by Publication Packet is available ONLY to assist individuals who are filing an action for divorce/legal separation.** You have a responsibility to make every effort to make personal service if possible, which includes gathering **reasonably available information** from family and friends to try and determine the other party's location, where the other party works, socializes, or car type and license plate number.

You may use this packet to attempt **Service by Publication** only if the following apply:

- You have tried personal service through the Sheriff's Department or a Private Process Server
- You have given them as much information as possible to help them find the other person
- The Sheriff's Department or Process Server cannot find the other person after a diligent search
- You have been given an **Affidavit of Due Diligence/Not Found/ Attempted Service** stating the other person could not be found. Keep this affidavit.

**NOTE:** Even if you were unable to find the other party using one of the primary methods, you must still have him/her served within the 90-day deadline established by statute. If you are unable to serve the other party within the required time limits, you may write a letter to the court within the **90-day time limit** requesting up to **60 more days** to have the other party served. You must then have the other party served by publication within the time limits provided by the court.

Court Related Offices		
<b>Court Self-Help Center</b> <b>Courthouse, Room C-108</b> <b>262-548-7524</b>  <b>Open:</b> Mon 8:30 am - 12:00 pm Wed 12 pm - 4 pm Fri 8:30 am - 4 pm Tues & Thurs by Appointment only	<b>Child Support Agency</b> <b>Administration Building,</b> <b>Room 348</b> <b>262-548-7420</b>  <b>Open:</b> Mon-Fri 8 am - 4:30 pm	<b>Clerk of Courts</b> <b>Family Court Office</b> <b>Courthouse, Room C-112</b> <b>262-548-7544</b>  <b>Open:</b> Mon-Fri 8 am - 4:30 pm
<b>Waukesha County Courthouse, 515 W. Moreland Blvd, Waukesha, WI 53188</b>		
Copies can be made in the Court Self-Help Center for <b>\$.15</b> per page		

## Procedural Checklist

1. ☐ Prepare a cover letter like the following example.

[Date]

Spouse's Name  
Last Known Address  
City, State ZIP

RE: Case Title [Jane Doe v. John Doe]  
Case No.: Court Case Number [07FA123]

Dear [Spouse's Name]:

Enclosed please find a [name the documents enclosed], which I have filed in the Waukesha County Circuit Court.

Sincerely,

Your name [Jane Doe]

2. ☐ Make a copy of the cover letter for your records.
3. ☐ Mail to your spouse at his/her last known address the original cover letter and a copy of the Documents. (If the mailing is returned to you, keep it for your court hearing.)
4. ☐ Complete the **Publication Affidavit of Mailing** (FA-4123).
5. ☐ Complete the **Publication Summons** (FA-4122).
6. ☐ Take the **Publication Summons** to the newspaper in the municipality where your spouse currently lives, or where his/her last known address is located. There will be a fee, which cannot be waived by the court. The **Publication Summons** must be **published in the newspaper once a week for 3 consecutive weeks** and is considered served on the first day of publication.
- Note:** There are official newspapers in many municipalities, but generally you can use any newspaper regularly published at least once a week in the city, village, or town where your spouse lives, or you think he/she may live.
7. ☐ The Newspaper will provide you with a document as proof of the publication.
8. ☐ **Take the following documents to the Court, as soon as possible and keep a copy for your records.**
- **Affidavit of Due Diligence/Not Found/Attempted Service provided by the Sheriff's Department or private process server.**
  - **Your cover letter**
  - **Publication Affidavit of Mailing**
  - **Proof of the Service by Publication from the newspaper**

**PRINT in BLACK ink**

Enter the name of the county in which this case is filed.	<b>STATE OF WISCONSIN, CIRCUIT COURT,</b> _____ <b>COUNTY</b>	<i>For Official Use</i>  <b>Publication Affidavit of Mailing</b>  <input type="checkbox"/> <b>Divorce-40101</b> <input type="checkbox"/> <b>Legal Separation-40201</b>  Case No. _____
Enter your name.	In re the marriage of: <b>Petitioner:</b> _____ First name                      Middle name                      Last name	
On the far right, check divorce or legal separation.	and <b>Respondent:</b> _____ First name                      Middle name                      Last name	
Enter your spouse's name.		
Enter the case number.		

Under oath I state that

1. The respondent is being served the authenticated **Summons** and **Petition** by publication. A separate affidavit of publication from the publisher/printer will be filed with the court.
2. In order to comply with statutory requirements for publication, I have also placed in an envelope a copy of the authenticated **Summons** and **Petition**.
3. I mailed that envelope with proper postage affixed on (date) \_\_\_\_\_ to:  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Enter the date [month, day, year] on which you placed the documents in a mailbox, and the name and last known address of the respondent.
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<b>STOP!</b> <b>Take this document to a Notary Public BEFORE you sign it.</b>
After you have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public.
Have the Notary Public sign, date, and seal the document.

Subscribed and sworn to before me  
on \_\_\_\_\_  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print or Type Name  
\_\_\_\_\_  
Date

(Seal)

**PRINT in BLACK ink**

Enter the name of the county in which this case is filed.	<b>STATE OF WISCONSIN, CIRCUIT COURT,</b> _____ <b>COUNTY</b>	<i>For Official Use</i>     <b>Publication Summons</b>  <input type="checkbox"/> <b>Divorce-40101</b> <input type="checkbox"/> <b>Legal Separation-40201</b>  Case No. _____
Enter your name.	In re the marriage of: <b>Petitioner:</b> _____ First name                      Middle name                      Last name	
On the far right, check divorce or legal separation.	and <b>Respondent:</b> _____ First name                      Middle name                      Last name	
Enter your spouse's name.		
Enter the case number.		

THE STATE OF WISCONSIN, TO THE PERSON NAMED ABOVE AS RESPONDENT:

You are notified that the petitioner named above has filed a **Petition** for divorce or legal separation against you.

You must respond with a written demand for a copy of the **Petition** within 45 days from the day after the first date of publication.

The demand must be sent or delivered to the court at:

Enter the name and address of the county in which this case is filed.	Clerk of Court,
	_____ County Courthouse,
	Address _____
	Address _____
	City _____ State _____ Zip _____
	and to
Enter your name and address.	Name _____
	Address _____
	Address _____
	City _____ State _____ Zip _____

It is recommended, but not required, that you have an attorney help or represent you.

If you do not demand a copy of the **Petition** within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the **Petition**, and you may lose your right to object to anything that is or may be incorrect in the **Petition**.

A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

You are further notified that if the parties to this action have minor children, violation of sec. 948.31 Wis. Stats., (Interference with custody by parent or others) is punishable by fines and/or imprisonment:

If you and the petitioner have minor children, documents setting forth the percentage standard for child support established by the department under sec. 49.22(9) Wis. Stats., and the factors that a court may consider for modification of that standard under sec. 767.25(1m), Wis. Stats., are available upon your request from the Clerk of Court.

You are notified of the availability of information from the Family Court Commissioner as set forth in sec. 767.081 Wis. Stats.

**767.081 Information from Family Court Commissioner.**

- (2) Upon the request of a party to an action affecting the family, including a revision of judgment or order under sec. 767.32 or 767.325:
- (a) The Family Court Commissioner shall, with or without charge, provide the party with written information on the following, as appropriate to the action commenced:
1. The procedure for obtaining a judgment or order in the action.
  2. The major issues usually addressed in such an action.
  3. Community resources and family court counseling services available to assist the parties.
  4. The procedure for setting, modifying, and enforcing child support awards, or modifying and enforcing legal custody or physical placement judgments or orders.
- (b) The Family Court Commissioner shall provide a party, for inspection or purchase, with a copy of the statutory provisions in this chapter generally pertinent to the action.

Sign and print your name.

Enter the date on which  
you signed your name.

**Note:** This signature does  
not need to be notarized.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Date

**Notice to Printers:** Do not print the instructional text in the boxes along the left-hand column when publishing this summons.